

Assembly Bill No. 2801

Passed the Assembly August 28, 1996

Chief Clerk of the Assembly

Passed the Senate August 20, 1996

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 1996, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to amend Sections 5705, 5718, 5775, and 5778 of the Welfare and Institutions Code, relating to mental health, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2801, Granlund. Local mental health services.

Under the Bronzan-McCorquodale Act, the State Department of Mental Health administers the provision of funds to counties for community mental health services programs.

Existing law permits negotiated net amount or rates to be used as the cost of services for community mental health services pursuant to contracts between the state and a county or contracts between a county and a subprovider of services, or both, subject to specified requirements.

Existing law also permits counties to receive, under certain circumstances, Medi-Cal reimbursement for mental health services. One of the requirements for obtaining Medi-Cal reimbursement is the submission by a county of year-end cost reports.

This bill would require year-end cost reports to be submitted by December 31 following the close of the fiscal year.

This bill would require a county seeking to participate in the negotiated rate setting process for community mental health services under the Medi-Cal program for any fiscal year to submit to the department a negotiated rate proposal along with the prior fiscal year cost report, and the department to respond with comments to the proposal by January 31 following the submission of the prior year cost report.

The bill would specify that failure to submit the negotiated rate proposal and the prior fiscal year cost report shall result in disapproval of the rate proposal and



consequent settlement of the current year cost report to actual cost.

Existing law requires the department to implement managed mental health care for Medi-Cal beneficiaries through fee-for-service or capitated contracts negotiated with mental health plans, including counties, any qualified individual or organization, or a nongovernmental entity.

This bill would authorize the department, if a county is not complying with these provisions, or regulations or policies adopted thereunder, to impose sanctions, including, but not limited to, fines, penalties, withholding of payments, special requirements, probationary or corrective actions, or other actions deemed necessary to prompt and ensure contract and performance compliance. It would require the department to implement this provision through the adoption of emergency regulations, which would not be subject to the review and approval of the Office of Administrative Law, with these regulations to be effective for not more than 180 days.

Existing law further requires that no sooner than October 1, 1994, state matching funds for Medi-Cal fee-for-service acute psychiatric inpatient services, and associated administrative days, be transferred to the department, and that no later than July 1, 1998, upon agreement by the department and the State Department of Health Services, state matching funds for the remaining Medi-Cal fee-for-service mental health services and the state matching funds associated with capitated rate counties be transferred to the department.

This bill would change this date from July 1, 1998, to January 1, 1997.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 5705 of the Welfare and Institutions Code is amended to read:



5705. (a) It is the intent of the Legislature that the use of negotiated net amounts or rates, as provided in this section, be given preference in contracts for services under this division.

(b) Negotiated net amount or rates may be used as the cost of services in contracts between the state and the county or contracts between the county and a subprovider of services, or both, in accordance with the following provisions:

(1) A negotiated net amount shall be determined by calculating the total budget for services for a program or a component of a program, less the amount of projected revenue. All participating government funding sources, except for the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9), shall be bound to that amount as the cost of providing all or part of the total county mental health program as described in the county performance contract for each fiscal year, to the extent that the governmental funding source participates in funding the county mental health programs. Where the State Department of Health Services promulgates regulations for determining reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program, those regulations shall be controlling as to the rates for reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this subdivision shall report to the State Department of Mental Health and local mental health programs any information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health.

(2) A negotiated rate is the payment for services delivered on a per unit of service basis. All participating governmental funding sources shall be bound by that amount as the cost of providing that service for that county mental health program to the extent that the governmental funding source participates in funding the county and mental health program. Where the State

Department of Health Services promulgates regulations for determining reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program, those regulations shall be controlling as to the rates for reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this subdivision shall report to the local mental health program and the local mental health program shall report to the State Department of Mental Health any information required by the department in accordance with procedures established by the Director of Mental Health.

(3) A county choosing to participate in the negotiated rate setting process for community mental health services under the Medi-Cal program in any fiscal year shall submit a negotiated rate proposal to the State Department of Mental Health, along with the prior fiscal year cost report, by December 31 following the close of the fiscal year. The department shall respond with comments to the negotiated rate proposal of a participating county by January 31 following the submission of the prior year cost report.

(4) Failure to submit both the rate proposal, as required by paragraph (3), and the prior fiscal year cost report by December 31, as required by subdivision (c) of Section 5718, shall result in disapproval of the rate proposal, and consequent settlement of the current year cost report to actual cost.

(c) Notwithstanding any other provision of this division or Division 9 (commencing with Section 10000), absent a finding of fraud, abuse, or failure to achieve contract objectives, no restrictions, other than any contained in the contract, shall be placed upon a provider's expenditure or retention of funds received pursuant to this section.

SEC. 2. Section 5718 of the Welfare and Institutions Code is amended to read:

5718. (a) (1) This section and Sections 5719 to 5724, inclusive, shall apply to mental health services provided by counties to Medi-Cal eligible individuals. Counties



shall provide services to Medi-Cal beneficiaries and seek the maximum federal reimbursement possible for services rendered to the mentally ill.

(2) To the extent permitted under federal law, funds deposited into the local health and welfare trust fund from the Sales Tax Account of the Local Revenue Fund may be used to match federal medicaid funds in order to achieve the maximum federal reimbursement possible for services pursuant to this chapter. If a county applies to use local funds, the department may enforce any additional federal requirements that use may involve, based on standards and guidelines designed to enhance, protect, and maximize the claiming of those resources.

(3) The standards and guidelines for the administration of mental health services to Medi-Cal eligible persons shall be based on federal medicaid requirements.

(b) With regard to each person receiving mental health services from a county mental health program, the county shall determine whether the person is Medi-Cal eligible and, if determined to be Medi-Cal eligible, the person shall be referred when appropriate to a facility, clinic, or program which is certified for Medi-Cal reimbursement.

(c) With regard to county operated facilities, clinics, or programs for which claims are submitted to the department for Medi-Cal reimbursement for mental health services to Medi-Cal eligible individuals, the county shall ensure that all requirements necessary for Medi-Cal reimbursement for these services are complied with, including, but not limited to, utilization review and the submission of year-end cost reports by December 31 following the close of the fiscal year.

(d) Counties shall certify to the state that required matching funds are available prior to the reimbursement of federal funds.

SEC. 3. Section 5775 of the Welfare and Institutions Code is amended to read:

5775. (a) Notwithstanding any other provision of state law, the State Department of Mental Health shall



implement managed mental health care for Medi-Cal beneficiaries through fee-for-service or capitated rate contracts with mental health plans, including individual counties, counties acting jointly, any qualified individual or organization, or a nongovernmental entity. A contract may be exclusive and may be awarded on a geographic basis.

(b) Two or more counties acting jointly may agree to deliver or subcontract for the delivery of mental health services. The agreement may encompass all or any portion of the mental health services provided pursuant to this part. This agreement shall not relieve the individual counties of financial responsibility for providing these services. Any agreement between counties shall delineate each county's responsibilities and fiscal liability.

(c) The department shall offer to contract with each county for the delivery of mental health services to that county's Medi-Cal beneficiary population prior to offering to contract with any other entity, upon terms at least as favorable as any offered to a noncounty contract provider. If a county elects not to contract with the department, does not renew its contract, or does not meet the minimum standards set by the department, the department may elect to contract with any other governmental or nongovernmental entity for the delivery of mental health services in that county and may administer the delivery of mental health services until a contract for a mental health plan is implemented. The county may not subsequently contract to provide mental health services under this part unless the department elects to contract with the county.

(d) If a county does not contract with the department to provide mental health services, the county shall transfer the responsibility for community Medi-Cal reimbursable mental health services and the anticipated county matching funds needed for community Medi-Cal mental health services in that county to the department. The amount of the anticipated county matching funds shall be determined by the department in consultation



with the county, and shall be adjusted annually. The amount transferred shall be based on historical cost, adjusted for changes in the number of Medi-Cal beneficiaries and other relevant factors. The anticipated county matching funds shall be used by the department to contract with another entity for mental health services, and shall not be expended for any other purpose but the provision of those services and related administrative costs. The county shall continue to deliver non-Medi-Cal reimbursable mental health services in accordance with this division, and subject to subdivision (i) of Section 5777.

(e) (1) Whenever the department determines that a mental health plan has failed to comply with this part, or any regulations adopted pursuant thereto implementing this part, the department may impose sanctions including, but not limited to, fines, penalties, withholding of payments, special requirements, probationary or corrective actions, or other actions deemed necessary to prompt and ensure contract and performance compliance. If fines are imposed by the department, they may be withheld from the state matching funds provided to mental health plans for Medi-Cal mental health services.

(2) The department shall adopt emergency regulations necessary to implement paragraph (1), including the establishment of procedures for the appeal of an administrative finding relative to paragraph (1), in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The initial adoption of emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare, and shall be exempt from the review or approval of the office of administrative law. Regulations adopted pursuant to this section shall remain in effect for no more than 180 days. These regulations shall be developed in consultation with a statewide organization representing counties.



SEC. 4. Section 5778 of the Welfare and Institutions Code is amended to read:

5778. (a) This section shall be limited to mental health services reimbursed through a fee-for-service payment system.

(b) During the initial phases of the implementation of this part, as determined by the department, the mental health plan contractor and subcontractors shall submit claims under the Medi-Cal program for eligible services on a fee-for-service basis.

(c) A qualifying county may elect, with the approval of the department, to operate under the requirements of a capitated, integrated service system field test pursuant to Section 5719.5 rather than this part, in the event the requirements of the two programs conflict. A county that elects to operate under that section shall comply with all other provisions of this part that do not conflict with that section.

(d) (1) No sooner than October 1, 1994, state matching funds for Medi-Cal fee-for-service acute psychiatric inpatient services, and associated administrative days, shall be transferred to the department. No later than July 1, 1997, upon agreement between the department and the State Department of Health Services, state matching funds for the remaining Medi-Cal fee-for-service mental health services and the state matching funds associated with field test counties under Section 5719.5 shall be transferred to the department.

(2) The department, in consultation with the State Department of Health Services, a statewide organization representing counties, and a statewide organization representing health maintenance organizations shall develop a timeline for the transfer of funding and responsibility for fee-for-service mental health services from Medi-Cal managed care plans to mental health plans. In developing the timeline, the department shall develop screening, referral, and coordination guidelines to be used by Medi-Cal managed care plans and mental health plans.

(e) The department shall allocate the contracted amount at the beginning of the contract period to the mental health plan. The allocated funds shall be considered to be funds of the plan that may be held by the department. The department shall develop a methodology to ensure that these funds are held as the property of the plan and shall not be reallocated by the department or other entity of state government for other purposes.

(f) Beginning in the fiscal year following the transfer of funds from the State Department of Health Services, the state matching funds for Medi-Cal mental health services shall be included in the annual budget for the department. The amount included shall be based on historical cost, adjusted for changes in the number of Medi-Cal beneficiaries and other relevant factors.

(g) Initially, the mental health plans shall use the fiscal intermediary of the Medi-Cal program of the State Department of Health Services for the processing of claims for inpatient psychiatric hospital services and may be required to use that fiscal intermediary for the remaining mental health services. The providers for other Short-Doyle Medi-Cal services shall not be initially required to use the fiscal intermediary but may be required to do so on a date to be determined by the department. The department and its mental health plans shall be responsible for the initial incremental increased matching costs of the fiscal intermediary for claims processing and information retrieval associated with the operation of the services funded by the transferred funds.

(h) The mental health plans, subcontractors, and providers of mental health services shall be liable for all federal audit exceptions or disallowances based on their conduct or determinations. The mental health plan contractors shall not be liable for federal audit exceptions or disallowances based on the state's conduct or determinations. The department and the State Department of Health Services shall work jointly with mental health plans in initiating any necessary appeals. The State Department of Health Services may offset the



amount of any federal disallowance or audit exception against subsequent claims from the mental health plan or subcontractor. This offset may be done at any time, after the audit exception or disallowance has been withheld from the federal financial participation claim made by the State Department of Health Services. The maximum amount that may be withheld shall be 25 percent of each payment to the plan or subcontractor.

(i) The mental health plans shall have sufficient funds on deposit with the department as the matching funds necessary for federal financial participation to ensure timely payment of claims for acute psychiatric inpatient services and associated administrative days. The department and the State Department of Health Services, in consultation with a statewide organization representing counties, shall establish a mechanism to facilitate timely availability of those funds. Any funds held by the state on behalf of a plan shall be deposited in a mental health managed care deposit fund and shall accrue interest to the plan. The department shall exercise any necessary funding procedures pursuant to Section 12419.5 of the Government Code and Sections 8776.6 and 8790.8 of the State Administrative Manual regarding county claim submission and payment.

(j) (1) The goal for funding of the future capitated system shall be to develop statewide rates for beneficiary, by aid category and with regional price differentiation, within a reasonable time period. The formula for distributing the state matching funds transferred to the department for acute inpatient psychiatric services to the participating counties shall be based on the following principles:

(A) Medi-Cal state General Fund matching dollars shall be distributed to counties based on historic Medi-Cal acute inpatient psychiatric costs for the county's beneficiaries and on the number of persons eligible for Medi-Cal in that county.

(B) All counties shall receive a baseline based on historic and projected expenditures up to October 1, 1994.

(C) Projected inpatient growth for the period October 1, 1994, to June 30, 1995, inclusive, shall be distributed to counties below the statewide average per eligible person on a proportional basis. The average shall be determined by the relative standing of the aggregate of each county's expenditures of mental health Medi-Cal dollars per beneficiary. Total Medi-Cal dollars shall include both fee-for-service Medi-Cal and Short-Doyle Medi-Cal dollars for both acute inpatient psychiatric services, outpatient mental health services, and psychiatric nursing facility services, both in facilities that are not designated as institutions for mental disease and for beneficiaries who are under 22 years of age and beneficiaries who are over 64 years of age in facilities that are designated as institutions for mental disease.

(D) There shall be funds set aside for a self-insurance risk pool for small counties. The department may provide these funds directly to the administering entity designated in writing by all counties participating in the self-insurance risk pool. The small counties shall assume all responsibility and liability for appropriate administration of these funds. For purposes of this subdivision, "small counties" means counties with less than 200,000 population. Nothing in this paragraph shall in any way obligate the state or the department to provide or make available any additional funds beyond the amount initially appropriated and set aside for each particular fiscal year, unless otherwise authorized in statute or regulations, nor shall the state or the department be liable in any way for mismanagement of loss of funds by the entity designated by the counties under this paragraph.

(2) The allocation method for state funds transferred for acute inpatient psychiatric services shall be as follows:

(A) For the 1994–95 fiscal year, an amount equal to 0.6965 percent of the total shall be transferred to a fund established by small counties. This fund shall be used to reimburse mental health plans in small counties for the cost of acute inpatient psychiatric services in excess of the funding provided to the mental health plan for risk

reinsurance, acute inpatient psychiatric services and associated administrative days, alternatives to hospital services as approved by participating small counties, or for costs associated with the administration of these moneys. The methodology for use of these moneys shall be determined by the small counties, through a statewide organization representing counties, in consultation with the department.

(B) The balance of the transfer amount for the 1994–95 fiscal year shall be allocated to counties based on the following formula:

County	Percentage
Alameda	3.5991
Alpine .....	.0050
Amador .....	.0490
Butte .....	.8724
Calaveras .....	.0683
Colusa .....	.0294
Contra Costa	1.5544
Del Norte .....	.1359
El Dorado .....	.2272
Fresno	2.5612
Glenn .....	.0597
Humboldt .....	.1987
Imperial .....	.6269
Inyo .....	.0802
Kern	2.6309
Kings .....	.4371
Lake .....	.2955
Lassen .....	.1236
Los Angeles	31.3239
Madera .....	.3882
Marin	1.0290
Mariposa .....	.0501
Mendocino .....	.3038
Merced .....	.5077
Modoc .....	.0176
Mono .....	.0096
Monterey .....	.7351



Napa .....	.2909
Nevada .....	.1489
Orange	8.0627
Placer .....	.2366
Plumas .....	.0491
Riverside	4.4955
Sacramento	3.3506
San Benito .....	.1171
San Bernardino	6.4790
San Diego	12.3128
San Francisco	3.5473
San Joaquin	1.4813
San Luis Obispo .....	.2660
San Mateo .....	.0000
Santa Barbara .....	.0000
Santa Clara	1.9284
Santa Cruz	1.7571
Shasta .....	.3997
Sierra .....	.0105
Siskiyou .....	.1695
Solano .....	.0000
Sonoma .....	.5766
Stanislaus	1.7855
Sutter/Yuba .....	.7980
Tehama .....	.1842
Trinity .....	.0271
Tulare	2.1314
Tuolumne .....	.2646
Ventura .....	.8058
Yolo .....	.4043

(k) The allocation method for the state funds transferred for subsequent years for acute inpatient psychiatric and other mental health services shall be determined by the department in consultation with a statewide organization representing counties.

(l) The allocation methodologies described in this section shall only be in effect while federal financial participation is received on a fee-for-service reimbursement basis. When federal funds are capitated,



the department, in consultation with a statewide organization representing counties, shall determine the methodology for capitation consistent with federal requirements.

(m) The formula that specifies the amount of state matching funds transferred for the remaining Medi-Cal fee-for-service mental health services shall be determined by the department in consultation with a statewide organization representing counties. This formula shall only be in effect while federal financial participation is received on a fee-for-service reimbursement basis.

(n) Upon the transfer of funds from the budget of the State Department of Health Services to the department pursuant to subdivision (d), the department shall assume the applicable program oversight authority formerly provided by the State Department of Health Services, including, but not limited to, the oversight of utilization controls as specified in Section 14133. The mental health plan shall include a requirement in any subcontracts that all inpatient subcontractors maintain necessary licensing and certification. Mental health plans shall require that services delivered by licensed staff are within their scope of practice. Nothing in this part shall prohibit the mental health plans from establishing standards that are in addition to the minimum federal and state requirements, provided that these standards do not violate federal and state Medi-Cal requirements and guidelines.

(o) Subject to federal approval and consistent with state requirements, the mental health plan may negotiate rates with providers of mental health services.

(p) Under the fee-for-service payment system, any excess in the payment set forth in the contract over the expenditures for services by the plan shall be spent for the provision of mental health services and related administrative costs.

(q) Nothing in this part shall limit the mental health plan from being reimbursed appropriate federal financial participation for any qualified services even if the total expenditures for service exceeds the contract amount



with the department. Matching nonfederal public funds shall be provided by the plan for the federal financial participation matching requirement.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the fiscal integrity of community mental health services programs at the earliest possible time, it is necessary that this act go into immediate effect.



Approved _____, 1996

Governor

